

March 17, 2010

Mark Rohrer
Manitowoc County District Attorney
1010 South Eighth Street
Manitowoc, WI 54220

Dear Mr. Rohrer:

Re: Mandamus Action

I am writing to request that you bring a mandamus action against the government of Manitowoc County pursuant to Wis. Stat. § 19.37(1)(b), in order to require the county to comply with an open records request I submitted related to contracted services for the expo center.

On the morning of March 11, 2010, I emailed County Clerk Jamie Aulik a written request for records related to contracted services for the expo center, which I have attached for your review.

In a phone conversation later that morning, I was advised by Mr. Aulik, that he would provide any requested records that he possessed under his authority as county clerk, but that most of the records I sought were held by other records custodians within Manitowoc County. Mr. Aulik informed me that to obtain those records, I would need to submit additional requests to the appropriate records custodian(s). Mr. Aulik informed me he did not have, and could not provide list of records custodians acting under the authority of the county. Mr. Aulik also indicated that he had consulted Manitowoc County Corporate Counsel Steve Rollins regarding my request.

I then sent a follow-up email (also attached) to Mr. Aulik, which I copied to Mr. Rollins, stating my position that the county must fulfill my request, rather than deflecting and delaying it with bureaucratic and technical obstacles.

Later that afternoon, I received a phone call from Mr. Rollins, in which he explained that, in general, each department head, or their designee, is the records custodian for their department. Mr. Rollins also said the county does not maintain a list of records custodians.

On March 16, 2010, I sent an email request (attached) to Mr. Aulik, indicating that I had not received a written response regarding the status of my request, and inquiring if it was necessary for me to duplicate and resubmit my request to the various records custodians. Mr. Aulik promptly sent an email response (attached) indicating that was necessary for me to submit my request to the appropriate records custodian(s). Mr. Aulik indicated that many of my requests should be directed to the county Public Works Department.

Mr. Aulik then sent another email (attached) with his formal response to my open records request of March 11, which essentially said that the office of the county clerk does not have most of the records being requested.

I resubmitted my request to Public Works Director Jeff Beyer, however, there is no basis for me to determine if the county possesses other records falling under the scope of my request, but are held under the authority of other records custodians. Apparently, in Manitowoc County, if a sufficiently determined citizen seeks access to public information held by the county, it is necessary to submit the request to the approximately 20 different records custodians. Unfortunately for the citizen, even attempting to overcome this ridiculously convoluted barrier is essentially impossible, because the county itself cannot identify its records custodians.

Wis. Stat. § 19.31 declares that open records statutes "shall be construed in every instance with a presumption of complete public access, consistent with the conduct of governmental business." It is not expected that citizens who are seeking access to public information should understand the internal organization or workings of a government. Even though the county cannot identify the records custodians operating under its authority, the county places this burden on ordinary citizens, before they are even allowed to request public information. The barriers to obtaining public information that Manitowoc County has imposed on its citizens violates the letter and spirit of Wisconsin's open records statutes.

The failure of the county to fulfill my rightful request for public information has already resulted in nearly a week of delay in releasing the requested information. The information being sought is of potentially great interest to voters in the election for county executive, which is now less than 20 days away. Stalling this request is equivalent to denial.

The relevance of this information to Manitowoc County voters was clear during the county board meeting last night, in which it appears that someone at the county has been approving payments to Triple PPP Inc. for vacations, which is not required or authorized by their contract.

Therefore, I request that you bring a mandamus action pursuant to Wis. Stat. § 19.37(1)(b) to obtain the timely disclosure of these records. Please contact me if you have any questions.

Sincerely,

Ronald Kossik
702 New York Avenue
Manitowoc, WI 54220
Cell: 414-704-4571